

RESPONSE TO OFFICE COMMUNICATION
DATED SEPTEMBER 4, 2007

Appln. No. 10/670,854

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October 3, 2007

REMARKS

This is in response to the Office Communication dated September 4, 2007. Reconsideration is respectfully requested.

These remarks supplement the reasons given on pages 5 and 6 of the Response dated July 9, 2007.

In the rejection under 35 USC 103(a), the Examiner acknowledged that Nomura lacks a showing that a cover projects beyond the perimeter of the aperture as claimed by applicants in Claim 1. As amended, Claim 1 specifies that the housing is movable literally along a vertical axis and that the top has "a projecting surface portion surrounding the housing and extending to a position surrounding the borders of the aperture". The claim further requires that the projecting surface portion is in interfacing relationship with the horizontally extending surface, further specifies that the surface has a rib projecting upwardly therefrom towards the projecting surface portion, that the rib cooperates with a complementary recess in the projecting surface portion, that the rib keeps water from entering the aperture when the housing is in the first position and that the rib and the complementary recess are relatively dimensioned to allow for free, unrestricted motion of the housing in the first and second position. This is not shown in Nomura, which shows a sliding plate 10 in the embodiment of Figure 2 or alternatively rubber seals 26 in the embodiment of Figure 4.

The Examiner's obviousness rejection relies on Hodak (Figure 3) and Farrell (Figure 4) and states that it would have been obvious to the ordinary artisan to provide Nomura with the flanged arrangement of these two references. This rejection is respectfully traversed.

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The Hodak patent, in all embodiments, discloses a swimming pool skimmer which is mounted on a vertical wall of the pool for the purpose of drawing off surface water and debris from the pool by means of a pump (not shown). A cover member 25 is vertically oriented so as to seal the opening 19 in the pool sidewall 18. The purpose of the cover is to close off the skimmer to prevent flow of water through it so as to prevent damage to the pipes and filtration equipment comprising the skimmer during the cold winter months when these elements could be otherwise damaged by freezing. The cover in Hodak is vertically oriented on the vertical wall of the wet side of the pool. There is no cover that is attached to a movable object in the reference. To utilize it for movement with an object along a vertical axis between a first position beneath a surface and a second position projecting above the surface as is called for in amended Claim 1 would require substantial reconstruction not found in Hodak. Further, raised flange 40 which is secured to the vertical wall of the pool does not function in a way that keeps water from entering the aperture, nor is it relatively dimensioned with respect to the recess in the cover in a way that allows for free, unrestricted movement of the housing between the first and second positions, all as called for in amended Claim 1. Instead, if the parts were dimensioned relatively for free and unrestricted movement, the cover would be incapable of affecting the seal that is essential for protection of the skimmer parts that it is designed to protect.

Farrell is directed to the provision of an overflow hatch for a reaction vessel in which aqueous wood pulp is blended with a gas such as chlorine, oxygen. In such vessels, some pressure is desired in order to drive the gas into the solution, and a gaseous pocket is formed under the vessel top cap. The lid 34 is provided with a sealing arrangement

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comprising double O-ring seals. The primary seal 45 will eventually distort due to the pressure and chemical reaction with the gases at the top of the tank and the secondary seal then maintains the pressure. The cover is hingedly mounted, is not connected to a housing that moves relatively between first and second positions along the vertical axis as is called for in Claim 1 and would not be adapted to use with Nomura without substantial reconstruction based on the teachings in applicants' specification.

In summary, the secondary references do not show a housing movable linearly along a vertical axis (line 10 of amended Claim 1). There is no suggestion in these references or in the primary reference relied on of the changes that would be needed to change Nomura's top configuration to provide a top for a vertically movable housing that projects from the housing to a position surrounding the boundaries of the aperture (lines 13-15 of Claim 1), wherein the projecting surface portion interfaces with the horizontal surface of the tub, wherein the surface has a rib that serves as a barrier to flow of moisture into the aperture (lines 15-20 of Claim 1) or of a rib and recess in the lid dimensioned to allow for free, unrestricted movement of the housing (lines 29-32 of Claim 1).

It is submitted that combining either Hodak or Farrell with Nomura would not be obvious to one of ordinary skill in the art. The teachings of the secondary references are inconsistent with the language of Claim 1 and such a combination, if attempted, would not lead to the invention claimed by applicants without reconstruction and the use of significant hindsight.

SYNNESTVEDT & LECHNER LLP

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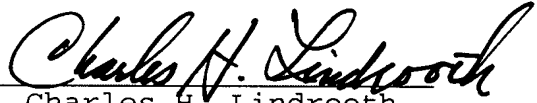
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For the foregoing reasons, together with the reasons set forth in the Response of July 9, 2007, it is respectfully requested that the rejection be withdrawn and that Claims 1, 3 and 11 be allowed in the absence of more pertinent art.

Respectfully submitted,

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